

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHAEL ANDREWS,

Plaintiff,

-against-

KEVIN RICO, et al.,

Defendants.

23-CV-06968 (MMG)

ORDER

MARGARET M. GARNETT, United States District Judge:

On December 6, 2023, Defendant New York City Health and Hospitals Corporation (“NYCH+H”) moved to dismiss Plaintiff’s complaint on the grounds that Plaintiff failed to allege sufficient facts to state a claim against it and that any claim brought by Plaintiff under HIPAA must be dismissed because HIPAA does not create a private right of action. *See* Dkt. No. 21. As part of his opposition to the motion, filed on February 16, 2024, Plaintiff moved for leave to amend his complaint to “add additional defendants[.]” *See* Dkt. No. 28.

This Court’s Individual Rules and Practices allow for a Plaintiff to amend a complaint in response to a motion to dismiss without prior permission of the Court. *See* Rules II(B)(6); III(E)(4) (setting forth the relevant procedures applicable specifically to *pro se* cases). Thus, Plaintiff’s motion for leave to amend his complaint is **HEREBY GRANTED**. Plaintiff shall file an amended complaint **by no later than Friday, September 27, 2024**.

Given the Court’s order herein granting Plaintiff leave to amend the complaint and the likelihood that additional Defendants and claims may be added, in the interest of judicial efficiency, Defendant NYCH+H’s motion to dismiss at Dkt. No. 21 is hereby **DENIED** without prejudice for leave to refile or to supplement once the amended complaint has been filed. If Plaintiff does not amend the complaint, Defendant NYCH+H may renew its motion. Any such future motion to dismiss may be made by letter and may refer to, or incorporate by reference, documents previously filed in support of NYCH+H’s prior motion to dismiss, such as the memorandum of law at Dkt. No. 23 and the Mayouhas Declaration at Dkt. No. 22.

The Clerk of Court is respectfully directed to terminate Dkt. Nos. 21 and 28. The Clerk of Court is also respectfully instructed to mail a copy of this Order to Plaintiff.

Dated: August 28, 2024
New York, New York

SO ORDERED.



MARGARET M. GARNETT
United States District Judge